

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

GEORGANN BENNING
aka GEORGANN SWANSON BENNING
729 E. CENTRAL AVENUE
HEMET, CA 92543

Case No. 2004-242

Registered Nurse License No. 350508

Respondent.

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 10, 2005

IT IS SO ORDERED this May 11, 2005.

Sandra K. Erickson

President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 BILL LOCKYER, Attorney General
of the State of California
2 SUSAN FITZGERALD, State Bar No. 112278
Deputy Attorney General
3 California Department of Justice
P.O. Box 85266
4 San Diego, CA 92186-5266
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6 Attorneys for Complainant

7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 GEORGANN BENNING
aka GEORGANN SWANSON
729 E Central Avenue
Hemet, CA 92543

13 Registered Nurse License No. 350508
14 Public Health Nurse Certificate No. 38565
Nurse Practitioner Certificate No. 2504

15 Respondent.

Case No. 2004-242

OAH No. L2004040686

**STIPULATED SURRENDER OF
LICENSE AND CERTIFICATES
AND ORDER**

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
17 proceeding that the following matters are true:

18 PARTIES

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of the
20 Board of Registered Nursing (Board). She brought this action solely in her official capacity and
21 is represented in this matter by Bill Lockyer, Attorney General of the State of California, by
22 Susan Fitzgerald, Deputy Attorney General.

23 2. Georgann Benning (Respondent) is represented in this proceeding by attorney
24 Melanie B. Goodman, whose address is 36 Santa Comba, Irvine, CA 92606.

25 3. On or about September 30, 1982, the Board issued Registered Nurse License No.
26 350508 to Respondent. The license was in full force and effect at all times relevant to the
27 charges brought in First Amended Accusation No. 2004-242 and will expire on November 30,
28

1 2005, unless renewed.

2 4. On or about July 10, 1985, the Board issued Public Health Nurse Certificate No.
3 38565 to Respondent. The certificate was in full force and effect at all times relevant to the
4 charges brought in First Amended Accusation No. 2004-242 and will expire on November 30,
5 2005, unless renewed.

6 5. On or about April 11, 1986, the Board issued Nurse Practitioner Certificate No.
7 2504 to Respondent. The certificate was in full force and effect at all times relevant to the
8 charges brought in First Amended Accusation No. 2004-242 and will expire on November 30,
9 2005, unless renewed.

10 6. On or about February 21, 1990, the Board issued Nurse Practitioner Furnishing
11 Certificate No. 2504 to Respondent. The certificate will expire on November 30, 2005, unless
12 renewed.

13 JURISDICTION

14 7. Accusation No. 2004-242 was filed before the Board of Registered Nursing
15 (Board), Department of Consumer Affairs. The Accusation and all other statutorily required
16 documents were properly served on Respondent on March 15, 2004. Respondent timely filed her
17 Notice of Defense contesting the Accusation. First Amended Accusation No. 2004-242 was filed
18 and served on Respondent on December 27, 2004. First Amended Accusation No. 2004-242 is
19 attached as exhibit A and incorporated herein by reference.

20 ADVISEMENT AND WAIVERS

21 8. Respondent has carefully read, fully discussed with counsel, and understands the
22 charges and allegations in First Amended Accusation No. 2004-242. Respondent also has
23 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
24 Surrender of License and Certificates and Order.

25 9. Respondent is fully aware of her legal rights in this matter, including the right to a
26 hearing on the charges and allegations in the First Amended Accusation; the right to be
27 represented by counsel, at her own expense; the right to confront and cross-examine the
28 witnesses against her; the right to present evidence and to testify on her own behalf; the right to

1 the issuance of subpoenas to compel the attendance of witnesses and the production of
2 documents; the right to reconsideration and court review of an adverse decision; and all other
3 rights accorded by the California Administrative Procedure Act and other applicable laws.

4 10. Respondent voluntarily, knowingly, and intelligently waives and gives up each
5 and every right set forth above.

6 11. Respondent voluntarily chooses to surrender her registered nurse license, her
7 public health nurse certificate, and nurse practitioner and nurse practitioner furnishing certificates
8 due to disability from health problems. As such, Respondent admits the truth and accuracy of the
9 charge in the First Amended Accusation under Business & Professions Code section 822 and that
10 it constitutes cause for discipline of her Board license and certificates.

11 12. Respondent understands that by signing this stipulation she enables the Board to
12 issue an order accepting the surrender of her registered nurse license, her public health nurse
13 certificate, her nurse practitioner certificate and her nurse practitioner furnishing certificate
14 without further process.

15 CONTINGENCY

16 13. This stipulation shall be subject to approval by the Board. Respondent
17 understands and agrees that counsel for Complainant and the staff of the Board may
18 communicate directly with the Board regarding this stipulation and settlement, without notice to
19 or participation by Respondent or her counsel. By signing the stipulation, Respondent
20 understands and agrees that she may not withdraw her agreement or seek to rescind the
21 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
22 stipulation as its Decision and Order, the Stipulated Surrender of License and Certificates and
23 Order shall be of no force or effect, except for this paragraph; it shall be inadmissible in any legal
24 action between the parties; and the Board shall not be disqualified from further action by having
25 considered this matter.

26 OTHER MATTERS

27 14. The parties understand and agree that facsimile copies of this Stipulated Surrender
28 of License and Certificates and Order, including facsimile signatures thereto, shall have the same

1 force and effect as the originals.

2 15. In consideration of the foregoing admissions and stipulations, the parties agree
3 that the (Board) may, without further notice or formal proceeding, issue and enter the following
4 Order:

5 **ORDER**

6 IT IS HEREBY ORDERED that Registered Nurse License No. 350508, Public Health
7 Nurse Certificate No. 38565, Nurse Practitioner Certificate No. 2504 and Nurse Practitioner
8 Furnishing Certificate No. 2504 issued to Respondent aka Georgann Swanson, Georgann
9 Benning are surrendered and accepted by the Board of Registered Nursing.

10 A. The surrender of Respondent's registered nurse license, public health nurse
11 certificate, nurse practitioner certificate and nurse practitioner furnishing certificate and the
12 acceptance of the surrendered license and certificates by the Board shall constitute the imposition
13 of discipline against Respondent. This stipulation constitutes a record of the discipline and shall
14 become a part of Respondent's license history with the Board.

15 B. Respondent shall lose all rights and privileges as a registered nurse, public health
16 nurse, and nurse practitioner in California as of the effective date of the Board's Decision and
17 Order.

18 C. Respondent shall cause to be delivered to the Board her license and certificates,
19 wall and pocket, on or before the effective date of the Decision and Order.

20 D. Respondent fully understands and agrees that if she ever files an application for
21 licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
22 petition for reinstatement. Respondent must comply with all the laws, regulations and
23 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all
24 of the charges and allegations contained in the First Amended Accusation, No. 2004-242, other
25 than the already admitted charge under Code section 822, shall be deemed to be true, correct,
26 and admitted by Respondent when the Board determines whether to grant or deny the petition.

27 ///

28 ///

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NO. 451

1 E. Respondent shall not apply for licensure or petition for reinstatement to the Board
2 for three (3) years from the effective date of the Board of Registered Nursing's Decision and
3 Order.

4 ACCEPTANCE

5 I have carefully read the above Stipulated Surrender of License and Certificates and Order
6 and have fully discussed it with my attorney, Melanie B. Goodman. I understand the stipulation
7 and the effect it will have on my Registered Nurse License, and Public Health Nurse Certificate,
8 and Nurse Practitioner Certificate. I enter into this Stipulated Surrender of License and
9 Certificates and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
10 Decision and Order of the Board of Registered Nursing.

11 DATED: 1-24-05

12
13 
14 GEORGANN BENNING
Respondent

15 I have read and fully discussed with Respondent Georgann Benning the terms and
16 conditions and other matters contained in this Stipulated Surrender of License and Certificates
17 and Order. I approve its form and content.

18 DATED: 1/24/05

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20 
21 MELANIE B. GOODMAN
Attorney for Respondent

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DATED: January 24, 2005


SUSAN FITZGERALD
Deputy Attorney General

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Exhibit A

First Amended Accusation No. 2004-242

1 BILL LOCKYER, Attorney General
of the State of California
2 SUSAN FITZGERALD, State Bar No. 112278
Supervising Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
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5 P.O. Box 85266
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Facsimile: (619) 645-2061

7 Attorneys for Complainant
8

9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2004-242

13 **GEORGANN SWANSON BENNING**
729 E. Central Avenue
14 Hemet, California 92543

**FIRST AMENDED
ACCUSATION**

15 Registered Nurse License No. 350508
Public Health Nurse Certificate No. 38565
16 Nurse Practitioner Certificate No. 2504
Nurse Practitioner Furnishing Cert. No. 2504

17 Respondent.
18

19 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this First Amended Accusation solely in her official capacity
22 as the Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
23 Affairs. This First Amended Accusation supercedes the original Accusation filed in this case.

24 **License Information**

25 2. On or about September 30, 1982, the Board issued Registered Nurse License
26 Number 350508 ("license") to Georgann Swanson, with a subsequent name change to
27 Georgann Swanson Benning ("Respondent"). The license will expire on November 30, 2005,
28 unless renewed.

1 3. On or about July 10, 1985, the Board issued Public Health Nurse Certificate
2 Number 38565 ("license") to Respondent. The certificate will expire on November 30, 2005,
3 unless renewed.

4 4. On or about April 11, 1986, the Board issued Nurse Practitioner Certificate
5 Number 2504 ("license") to Respondent. The certificate will expire on November 30, 2005,
6 unless renewed.

7 5. On or about February 21, 1990, the Board issued Nurse Practitioner Furnishing
8 Certificate Number 2504 ("license") to Respondent. The certificate will expire on November 30,
9 2005, unless renewed.

10 STATUTORY AND REGULATORY PROVISIONS

11 6. Section 2750 of the Business and Professions Code ("Code") provides, in
12 pertinent part, that the Board may discipline any licensee, including a licensee holding a
13 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code
14 section 2750) of the Nursing Practice Act.

15 7. Code section 822 provides, in pertinent part, that if a licensee is determined to be
16 impaired to practice his or her profession safely due to physical or mental illness affecting
17 competency, the licensing agency may take disciplinary action against the licensee.

18 8. Code section 2764 provides, in pertinent part, that the expiration of a license shall
19 not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
20 licensee or to render a decision imposing discipline on the license. Under Code section 2811,
21 subdivision (b), the Board may renew an expired license at any time within eight years after the
22 expiration.

23 9. Code section 2761 states, in pertinent part:

24 The board may take disciplinary action against a certified or licensed nurse
25 or deny an application for a certificate or license for any of the following:

26 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

27 (1) Incompetence, or gross negligence in carrying out usual certified or
28 licensed nursing functions. board. A certified copy of the decision or judgment
shall be conclusive evidence of that action.

1 (k) Except for good cause, the knowing failure to protect patients by
2 failing to follow infection control guidelines of the board, thereby risking
3 transmission of blood-borne infectious diseases from licensed or certified nurse to
4 patient, from patient to patient, and from patient to licensed or certified nurse. In
5 administering this subdivision, the board shall consider referencing the standards,
6 regulations, and guidelines of the State Department of Health Services developed
7 pursuant to Section 1250.11 of the Health and Safety Code and the standards,
8 guidelines, and regulations pursuant to the California Occupational Safety and
9 Health Act of 1973 (Part 1 (commencing with Section 6300), Division 5, Labor
10 Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne
11 pathogens in health care settings. As necessary, the board shall consult with the
12 Medical Board of California, the Board of Podiatric Medicine, the Dental Board
13 of California, and the Board of Vocational Nursing and Psychiatric Technicians,
14 to encourage appropriate consistency in the implementation of this subdivision.

15 The board shall seek to ensure that licentiates and others regulated by the
16 board are informed of the responsibility of licentiates to *minimize the risk of*
17 transmission of blood-borne infectious diseases from health care provider to
18 patient, from patient to patient, and from patient to health care provider, and of the
19 most recent scientifically recognized safeguards for minimizing the risks of
20 transmission.

21 10. Code section 2762 states, in pertinent part:

22 In addition to other acts constituting unprofessional conduct within the
23 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct
24 for a person licensed under this chapter to do any of the following:

25 (a) Obtain or possess in violation of law, or prescribe, or except as
26 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
27 himself or herself, or furnish or administer to another, any controlled substance as
28 defined in Division 10 (commencing with Section 11000) of the Health and Safety
Code or any dangerous drug or dangerous device as defined in Code section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing
with Section 11000) of the Health & Safety Code, or any dangerous drug. . .
to an extent or in a manner dangerous or injurious to himself or herself, any
other person, or the public or to the extent at such use impairs his or her ability
to conduct with safety to the public the practice authorized by his or her license.

11. Code section 4060 states, in pertinent part:

No person shall possess any controlled substance, except that furnished to
a person upon the prescription of a physician, dentist, podiatrist, or veterinarian,
or furnished pursuant to a drug order issued by a . . . nurse practitioner pursuant to
Code section 2836.1.

12. Code section 2836.1 states, in pertinent part:

Neither this chapter nor any other provision of law shall be construed
to prohibit a nurse practitioner from furnishing or ordering drugs or devices
when all of the following apply:

(a) The drugs or devices are furnished or ordered by a nurse practitioner
in accordance with standardized procedures or protocols developed by the

nurse practitioner and his or her supervising physician and surgeon under any of the following circumstances:

(1) When furnished or ordered incidental to the provision of family planning services.

(2) When furnished or ordered incidental to the provision of routine health care or prenatal care.

(3) When rendered to essentially healthy persons.

(b) The nurse practitioner is functioning pursuant to standardized procedure, as defined by Section 2725, or protocol. The standardized procedure or protocol shall be developed and approved by the supervising physician and surgeon, the nurse practitioner, and the facility administrator or his or her designee.

(c) The standardized procedure or protocol covering the furnishing of drugs or devices shall specify which nurse practitioners may furnish or order drugs or devices, which drugs or devices may be furnished or ordered, under what circumstances, the extent of physician and surgeon supervision, the method of periodic review of the nurse practitioner's competence, including peer review, and review of the provisions of the standardized procedure.

(d) The furnishing or ordering of drugs or devices by a nurse practitioner occurs under physician and surgeon supervision. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but does include (1) collaboration on the development of the standardized procedure, (2) approval of the standardized procedure, and (3) availability by telephonic contact at the time of patient examination by the nurse practitioner.

(f) Drugs or devices furnished or ordered by a nurse practitioner may include Schedule III through Schedule V controlled substances. . .and shall be further limited to those drugs agreed upon by the nurse practitioner and physician and surgeon and specified in the standardized procedure. When Schedule III controlled substances, as defined in Section 11056 of the Health & Safety Code, are furnished or ordered by a nurse practitioner, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician. A copy of the section of the nurse practitioner's standardized procedure relating to controlled substances shall be provided upon request, to any licensed pharmacist who dispenses drug or devices, when there is uncertainty about the nurse practitioner furnishing the order.

(g) The board has certified in accordance with Section 2836.3 that the nurse practitioner has satisfactorily completed (1) at least six month's physician and surgeon-supervised experience in the furnishing or ordering of drugs or devices and (2) a course in pharmacology covering the drugs or devices to be furnished or ordered under this section. The board shall establish requirements for the satisfactory completion of this subdivision.

(h) Use of the term 'furnishing' in this section. . .shall include (1) the ordering of a drug or device in accordance with the standardized procedure and (2) transmitting an order of a supervising physician and surgeon.

1 13. Section 2836.2 states in pertinent part:

2 Furnishing or ordering of drugs or devices by a nurse practitioner is
3 defined to mean the act of making a pharmaceutical agent or agents
4 available to the patient in strict accordance with a standardized
5 procedure. . .

6 14. Section 2836.3 provides for the issuance of a renewable nurse practitioner
7 "furnishing" number, and that the board may revoke or suspend that furnishing number for
8 incompetence or gross negligence "in the performance of functions specified in Sections 2836.1
9 and 2836.2."

10 15. Health and Safety Code section 11170 states that "[n]o person shall prescribe,
11 administer, or furnish a controlled substance for himself."

12 16. Health and Safety Code section 11173 states, in pertinent part:

13 (a) No person shall obtain or attempt to obtain controlled substances, or
14 procure or attempt to procure the administration of or prescription for controlled
15 substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by
16 concealment of a material fact.

17 (b) No person shall make a false statement in any prescription, order
18 report, or record, required by this division.

19 17. California Code of Regulations, title 16, section 1442, states:

20 As used in Section 2761 of the code, 'gross negligence' includes an
21 extreme departure from the standard of care which, under similar circumstances,
22 would have ordinarily been exercised by a competent registered nurse. Such an
23 extreme departure means the repeated failure to provide nursing care as required
24 or failure to provide care or to exercise ordinary precaution in a single situation
25 which the nurse knew, or should have known, could have jeopardized the client's
26 health or life.

27 18. California Code of Regulations, title 16, section 1443, states:

28 As used in Section 2761 of the code, 'incompetence' means the lack
29 of possession of or the failure to exercise that degree of learning, skill, care
30 and experience ordinarily possessed and exercised by a competent registered
31 nurse as described in Section 1443.5.

32 19. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"
33 "commission," "committee," "department," "division," "examining committee," "program," and
34 "agency." "License" includes certificate, registration or other means to engage in a business or
35 profession regulated by the Code.

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21. DRUGS

"Phentermine" is phentermine hydrochloride, a Schedule IV controlled substance, as designated by Health and Safety Code section 11057. "Adipex-P" is a brand name for phentermine.

(Physical Illness Affecting Competency to Practice Safely)

SECOND CAUSE FOR DISCIPLINE

23. Respondent has subjected her licenses to discipline under Code section 2761, subdivision (a), for unprofessional conduct, as defined in Code section 2762, subdivision (a), in between January 3, 1996 and November 8, 1999, while a licensee and employed at the office of Herman Mathias, M.D. in Hemet, California, Respondent committed the acts in violation of law. Any one of these acts is, in and of itself, a sufficient basis which to impose discipline.

a. Respondent prescribed/ordered/furnished Vicodin and Vicoprofen for herself, without a physician's authorization to do so, in violation of Health and Safety Code section

1 11170 on or about the following dates: 01/03/96, 08/01/96, 01/16/98, and 11/08/99.

2 b. Respondent obtained the Vicodin and Vicoprofen by fraud, deceit,
3 misrepresentation, or subterfuge, by prescribing/ordering/furnishing the drugs for herself without
4 a physician's authorization to do so, in violation of Health and Safety Code section 11173(a)(1).

5 c. Respondent possessed Vicodin and Vicoprofen in violation of Code section 4060.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(Prescribe Controlled Substances and/or Dangerous Drugs for Others**
8 **without a Physician's Authorization)**

9 24. Respondent has also subjected her licenses to discipline under Code section 2761,
10 subdivision (a), for unprofessional conduct, as defined in Code section 2762, subdivision (a), in
11 that while a licensee and employed at the medical office of Herman Mathias, M.D., Hemet,
12 California, Respondent prescribed/ordered/furnished the following controlled substances to her
13 family members, without a physician's authorization, in violation of Health and Safety Code
14 section 11173, subdivision (b) and not in compliance with Code section 2836.1. Any one of
15 these acts is, in and of itself, a sufficient basis upon which to impose discipline.

16 a. **For Respondent's uncle, P. H.:**

17 09/09/97 - Vicodin 100 tablets¹

18 03/03/98 - Vicoprofen 7.5/200 mg 30 tablets

19 06/21/99 - Vicodin 20 tablets

20 03/25/00 - Vicoprofen 7.5/200 mg 60 tablets

21 04/10/00 - Vicoprofen 7.5/200 mg 60 tablets

22 05/16/00 - Vicoprofen 7.5/200 mg 90 tablets

23 b. **For Respondent's husband, P.B.:**

24 12/05/96 - Phentermine 30 mg 30 capsules

25 02/17/97 - Phentermine 30 mg 30 capsules

26
27 1. Respondent forged the signature of Dr. Herman Mathias on the 09/09/97 prescription and the
28 signature of Dr. Anita Jackson on the prescriptions dated 3/24/00 and 5/15/00 and filled by the
pharmacy on 3/25/00 and 5/16/00, respectively.

03/28/98 - Vicodin 5/500 60 tablets

10/16/99 - Vicoprofen 60 tablets

12/13/99 - Vicoprofen 60 tablets

12/30/99 - Vicoprofen 60 tablets

01/15/00 - Vicoprofen 7.5/200 mg 60 tablets²

01/27/00 - Vicoprofen 7.5/200 mg 60 tablets

2/10/00 - Vicoprofen 60 tablets

c. **For Respondent's brother, G.U.:**

02/17/97 - Hydrocodone w/APAP 5/500 60 tablets

03/24/97 - Hydrocodone w/APAP 5/500 60 tablets

05/09/97 - Hydrocodone w/APAP 5/500 60 tablets

08/25/97 - Hydrocodone w/APAP 5/500 60 tablets

09/28/97 - Hydrocodone w/APAP 5/500 60 tablets

10/23/97 - Hydrocodone w/APAP 5/500 60 tablets

d. **For Respondent's brother, C.U.:**

07/16/98 - Vicodin 5/500 30 tablets

09/13/98 - Vicodin 5/500 30 tablets

08/17/99 - Vicoprofen 7.5/200 mg 20 tablets

10/09/99 - Vicoprofen 7.5/200 mg 20 tablets

12/05/99 - Vicoprofen 7.5/200 mg 20 tablets

12/26/99 - Vicoprofen 7.5/200 mg 20 tablets

03/09/00 - Vicoprofen 7.5/200 mg 20 tablets

04/23/00 - Vicoprofen 7.5/200 mg 20 tablets

e. **For Respondent's Sister-in-Law, D.U.:**

05/29/97 - Phentermine 30 mg 60 capsules

f. **For Respondent's sister, C.U.:**

2. Respondent also forged this prescription.

05/05/97 - Phentermine 30 mg 60 capsules

g. **For Respondent's mother, V.U.:**

03/10/97 - Phentermine 30 mg 60 capsules

06/05/97 - Phentermine 30 mg 60 capsules

09/13/97 - Phentermine 30 mg 60 capsules

FOURTH CAUSE FOR DISCIPLINE

(Failure to Protect Others from Infectious Diseases)

25. Respondent has also subjected her licenses to discipline under Code section 2761, subdivision (k), in that in or about June 2000, while on duty as a licensee at the medical office of Herman Mathias, Respondent failed to follow infection control guidelines as required by the Board, when she threw a contaminated speculum³ at P.B., a medical assistant, thereby risking the transmission of bodily fluid-borne infectious diseases.

FIFTH CAUSE FOR DISCIPLINE

(Gross Negligence or Incompetence)

26. Respondent has also subjected her licenses to discipline under Code section 2761, subdivision (a)(1), in that while a licensee and employed at the medical office of Herman Mathias, M.D., Hemet, California, Respondent committed acts constituting gross negligence or incompetence, within the meaning of California Code of Regulations, title 16, sections 1442 or 1443, as set forth more particularly below:

a. By illegally prescribing/obtaining and possessing controlled substances for herself. Paragraph 23 is realleged and incorporated herein by reference.

b. By illegally prescribing/ordering/furnishing controlled substances for members of her family. Paragraph 24 is realleged and incorporated herein by reference.

c. By her conduct as alleged in paragraph 25 above and incorporated herein by reference.

d. By removing patient charts from the medical office and forgetting to bring them

3. A speculum is an instrument inserted into a body passage for inspection or medication.

1 back. In one case, this resulted in a delay of three weeks in notifying a patient of mammogram
2 results that showed positive for cancer.

3 e. By becoming verbally abusive to other staff.

4 f. By abandoning her scheduled patients. In about 1998, Respondent started to
5 become frequently late for work or, sometimes, would not show up at all, giving a variety of
6 excuses. One such was that someone ran into her car and she could not drive it, yet the next day
7 she drove to work and no damage was noted to her vehicle.

8 On January 25, 2000, Respondent attempted to change a patient from the
9 schedule of one of the doctors at the clinic to Respondent's own patient schedule. When told
10 that that was against office policy, Respondent became very angry, raised her voice and started
11 swearing. She continued to do so as she walked into the break room and then down the hall to
12 her office. Staff and patients could hear her. Respondent then stated she was leaving and would
13 not see any more patients that day. Despite the fact that she had a full schedule of patients that
14 day, Respondent left the office.

15 g. By practicing as a nurse and/or nurse practitioner while under the influence of
16 controlled substances to the extent that her ability to practice her profession safely was impaired.

17 **SIXTH CAUSE FOR DISCIPLINE**

18 **(Dangerous Use of Controlled Substances)**

19 27. Respondent has also subjected her licenses to discipline under Code section 2761,
20 subdivision (a) for unprofessional conduct, as defined in Code section 2762, subdivision (b), in
21 that while a licensee and employed at the medical office of Herman Mathias, M.D. in Hemet,
22 California, Respondent practiced while under the influence of controlled substances to an extent
23 that she could not practice her profession safely and/or was a danger to herself or others, as set
24 forth more particularly below:

25 a. Respondent was first employed at the medical office of Herman Mathias, M.D. in
26 Hemet, California in March, 1995. She was very competent and the patients loved her. She was
27 on time, kept well to her schedule of patients, and was not verbally abusive or short tempered.
28 She did not spend inordinate amounts of time in the bathroom.

1 b. In about 1998, Respondent started becoming frequently late for work or,
2 sometimes, would not show up at all, giving a variety of excuses. One such was that someone
3 ran into her car and she could not drive it, yet the next day she drove to work and no damage was
4 noted to her vehicle.

5 c. Respondent's hands started often to tremble and shake; she seemed "zoned-out,"
6 and she spent long periods of time in the bathroom several times per day, sometimes emerging
7 shaky and with red eyes and flushed face.

8 d. Sometimes Respondent seemed dazed mentally and asked inappropriate
9 questions. She became verbally abusive, angry, and short-tempered.

10 e. Increasingly, Respondent would spend inordinate amounts of time with some
11 patients, causing others to have to be rescheduled.

12 f. In 1999, it was discovered that Respondent was contacting neighboring doctors'
13 offices asking for samples of Vicodin, telling the other offices that her office was out of samples
14 and needed them for their patients. When confronted with this behavior, Respondent stated that
15 she was receiving treatment for a pituitary gland tumor and was receiving radiation and needed
16 the Vicodin for the pain. Although Respondent was advised to cease obtaining samples and to
17 obtain pain medication from her own physician, she continued to try to obtain and to obtain
18 Vicodin from other doctors' offices' samples by herself or through other office staff.

19 g. Respondent would take files home and forget to bring them back, then deny that
20 she had the files and blame other staff when confronted. However, after confrontation, the
21 missing files would mysteriously appear back in the office the next morning.

22 h. Respondent became verbally abusive, short-tempered and, on one occasion, threw
23 a contaminated speculum at a member of the staff because that staff member had not yet cleaned
24 the examining room from the last patient before Respondent wanted to bring the next patient into
25 the room.

26 i. At least twice in 1996 and twice in 1998, Respondent illegally self-prescribed
27 Vicodin and Vicoprofen, as alleged in paragraph 21 above.

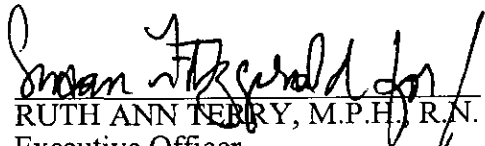
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 350508 issued to Respondent;
2. Revoking or suspending Public Health Nurse Certificate Number 38565 issued to Respondent;
3. Revoking or suspending Nurse Practitioner Certificate Number 2504 issued to Respondent;
4. Revoking or suspending Nurse Practitioner Furnishing Number 2504 issued to Respondent;
5. Ordering Respondent to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
6. Taking such other and further action as deemed necessary and proper.

DATED: 12/27/07


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant